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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Ronald Stallone, and the Putative Class,

Plaintiff,

v.

Farmers Group, Inc., 21st Century
Insurance Company, and Farmers
Insurance Exchange,

Defendants.

Case No.: 2:21-cv-01659-GMN-VCF

Discovery Plan and Scheduling Order

Special Scheduling Review Requested

1 On September 8, 2021, Plaintiff filed the original complaint. ECF No. 1. On
 2 January 7, 2022, Plaintiff filed his amended complaint. ECF No. 16. On February 8, 2022,
 3 Farmers Group, Inc., 21st Century Insurance Company, and Farmers Insurance Exchange
 4 (collectively, “Defendants”) filed their motion to dismiss the amended complaint. ECF No.
 5 21. Plaintiff filed his response to the motion to dismiss on March 8, 2022 (ECF No. 33),
 6 and Defendants filed their reply on March 28, 2022. ECF No. 36. The motion is now fully
 7 briefed.

8 Pursuant to the Court’s March 29, 2022 order (ECF No. 37), Ronald Stallone and
 9 Defendants (jointly as the “parties”), by and through their respective counsel, hereby
 10 submit this Discovery Plan and Scheduling Order.

11 **SPECIAL SCHEDULING REVIEW IS REQUESTED**

12 Special scheduling review is requested because the parties disagree on how and
 13 when discovery should proceed, as discussed below. The parties do agree that special
 14 scheduling is warranted because any discovery will require more time to complete than is
 15 presumed by the local rules. As this is a putative class action, more time will be needed to
 16 complete discovery relating to the Rule 23 requirements and other complex matters that
 17 are anticipated to arise in this case.

18 **PLAINTIFF’S POSITION**

19 Plaintiff intends to oppose Defendants’ motion to stay and requests that this Court
 20 enter the proposed discovery plan suggested below. The District of Nevada does not stay
 21 discovery as a matter of course or upon the filing of a motion to dismiss, and Defendants
 22 do not justify deviation from routine local practice. As set out in the Amended Complaint,
 23 Plaintiff and the putative class’s sensitive data was stolen as a result of Defendants’
 24 negligence, and remains in the hands of criminals. The class seeks injunctive relief that
 25 will be delayed by any stay in this action, which is especially urgent given that Defendants’
 26 offer of 12 free months of credit monitoring to the class starts to expire on April 22, 2022.
 27 In addition, any work performed while waiting for a ruling on the motion to stay will be
 minimal and, thus, when weighed against the prejudice to Plaintiff and the putative class
 from delay, warrants this Court’s prompt adoption of the proposed Plan.

DEFENDANTS' POSITION

Defendants filed a motion to stay discovery until the pleadings are set in this matter. ECF No. 38 ("Stay Motion"). For a full explanation of why a temporary stay is appropriate and would not prejudice Plaintiff, Defendants refer the Court to that Stay Motion. Because it has not been determined which, if any, claims will proceed in this lawsuit, and a stay will necessarily affect case deadlines, it is Defendants' position that the parties will be in the best position to address a proposed discovery plan after Defendants' requested stay. Plaintiff has not identified any prejudice other than the passage of time. Defendants accordingly request, pursuant to their Stay Motion, that the Court not issue a scheduling order at this time and instead order the parties to file a renewed Discovery Plan and Scheduling Order within 10 days of Defendants filing an answer in this matter.

Additionally, because Defendants' Stay Motion is now pending, Defendants request that the Court rule on the Stay Motion *before* issuing a scheduling order pursuant to this joint statement. Issuing a scheduling order will be a *de facto* ruling on the Stay Motion because it will require Defendants to comply with certain discovery deadlines while the Stay Motion is still pending. Defendants instead suggest that the better course is to first determine whether there will be a stay—and then address case scheduling, including whether the parties should later file a renewed proposed discovery plan, as requested above.

PROPOSED DISCOVERY PLAN

As set forth above, Defendants respectfully request that the Court rule on the pending Stay Motion before issuing a scheduling order in this case—and that, should a stay be issued, the parties submit a renewed proposed scheduling order 10 days after an answer is filed in this case. Plaintiff does not believe that a stay is appropriate here but agrees that case deadlines may be set based on the date when an order is issued resolving the Stay Motion.

In the event the Court declines to grant the Stay Motion, the parties jointly propose the below discovery plan and scheduling order, which is timed based on a ruling on the pending Stay Motion.

1. Initial disclosures due: 20 days after order on Stay Motion.

2. Deadline to amend pleadings and add parties: 30 days after order on Motion to Dismiss.
3. Initial expert disclosures due: 180 days after order on Stay Motion.
4. Rebuttal expert disclosures due: 240 days after order on Stay Motion.
5. Deadline to complete fact and expert discovery: 300 days after order on Stay Motion.
6. Deadline to file dispositive motions and motion for class certification: 330 days after order on Stay Motion.
7. Deadline to file pretrial order: 360 days after order on Stay Motion.

In the event dispositive motions are filed, the date for filing the joint pretrial order shall be 30 days after a decision on the dispositive motions or an alternative date set by the Court.

Pretrial Disclosures: The disclosures required by Rule 26(a)(3), and any objections thereto, shall be included in the joint pretrial order.

Extensions or Modifications of the Discovery Plan and Scheduling Order: Applications to extend any date set by the discovery plan, scheduling order, or other order must comply with the Local Rules.

Protective Order: The parties may seek to enter a stipulated protective order pursuant to Rule 26(c) prior to producing any confidential documents.

Electronic Service: The parties agree that, pursuant to Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure, any pleadings or other papers may be served by sending such documents by email.

Alternative Dispute Resolution Certification: The parties certify that they met and conferred about the possibility of using alternative dispute-resolution processes including mediation, arbitration, and early neutral evaluation. The parties have not reached any stipulations at this stage.

Alternative Forms of Case Disposition Certification: The parties certify that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-01). The parties have not reached any stipulations at this stage.

1 Electronically Stored Information: The parties have discussed the retention and
2 production of electronic data. The parties reserve the right to revisit this issue if a dispute
3 or need arises.

4 Electronic evidence conference certification: The parties may present evidence in
5 electronic format to jurors for the purposes of jury deliberations at trial. The parties
6 discussed the presentation of evidence for juror deliberations but did not reach any
7 stipulations as to the method as this early stage.

8 Dated: April 12, 2022

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